

MYRA CURTIS TEESATESKEE,

Plaintiff,

VS.

CAROLYN W. COLVIN,
Acting Commissioner of Social Security,

Defendant.

ORDER

THIS MATTER is before the Court on Plaintiff Myra Curtis Teesateskee's Motion for Reconsideration (Doc. No. 16) of this Court's order (Doc. No. 14) denying her motion for summary judgment and granting Defendant's motion for summary judgment. This motion is fully briefed (Docs. Nos. 18, 19) and is ripe for ruling. For the reasons set forth below, Plaintiff's Motion is GRANTED in part and DENIED in part, and this matter is REMANDED for the limited purpose of allowing the ALJ to indicate on the record as to whether he considered Dr. Marcus's opinion or explain why he disregarded it.

I. BACKGROUND

Plaintiff seeks judicial review of an unfavorable decision on her application for social security benefits. The factual and procedural background of this case has already been explained in this Court's previous order (Doc. No. 14). Plaintiff's instant motion does not challenge any of these findings of fact, and they are therefore incorporated by reference as if fully set forth herein.

II. ANALYSIS

Plaintiff argues two grounds for reconsideration: (1) the Order errs by concluding that the ALJ implicitly rejected Dr. Marcus's opinions, and (2) the Order errs by concluding that the ALJ properly evaluated the opinions of Dr. Clayton and Physician Assistant John Tucker. Plaintiff does not specifically challenge any other findings or conclusions in this Court's previous Order (Doc. No. 14), and thus, they remain undisturbed.

As to the first issue, the Court has revisited its Order and finds persuasive Plaintiff's argument that the ALJ never explicitly weighed Dr. Marcus's opinions. In response, Defendant appears to somewhat concede the ALJ failed to address Dr. Marcus's opinions, but Defendant argues that such failure did not harm Plaintiff. The Court, however, has reviewed the ALJ's decision and does not see sufficient—if any—explanation by the ALJ as to what weight he gave Dr. Marcus's opinion, notwithstanding the ALJ's clear preference for other opinions, including those that were contradictory to Dr. Marcus's opinion. Thus, remand is appropriate for the ALJ to address whether he considered Dr. Marcus's opinion or explain why he disregarded it.

The Court, however, stops short of concluding—as Plaintiff urges—that Dr. Marcus's opinion should have controlling weight. Such determination should be made by the ALJ, and the Court will express no comment on how the ALJ should weigh Dr. Marcus's opinion.


Turning to the second issue, the Court is unpersuaded by Plaintiff's arguments as to the ALJ's consideration of Dr. Clayton and PA Tucker's evaluation of Plaintiff, particularly where their observations were either outside the relevant time period or inconsistent with a substantial amount of other evidence.

III. CONCLUSION

IT IS THEREFORE ORDERED that Plaintiff's Motion for Reconsideration is GRANTED IN PART and DENIED IN PART, and the Court's Order (Doc. No. 14) is hereby amended as set forth herein. Accordingly, this Matter shall be REMANDED for further proceedings under sentence four of 42 U.S.C. § 405(g) consistent with this Order.

IT IS SO ORDERED.

Signed: May 8, 2014


Frank D. Whitney
Chief United States District Judge

